

*GARDNER*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHE JOHN,

Plaintiff,

-against-

NEW YORK CITY and POLICE OFFICER DIAZ  
and UNIDENTIFIED NEW YORK CITY POLICE  
OFFICERS,

Defendants.

**STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISMISSAL**

09 Civ. 4482 (PGG)

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**WHEREAS**, plaintiff commenced this action by filing a complaint on or about May 11, 2009, alleging that defendants City of New York and Police Officer Diaz violated plaintiff's federal civil and state common law rights; and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

**WHEREAS**, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of Forty Thousand (\$40,000.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants and to release defendants, any present or former employees and agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action that were or could have been alleged by plaintiff arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject

matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

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By:



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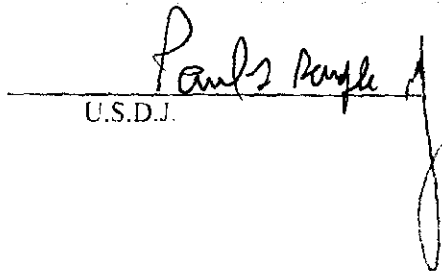
By:



SHAWN D. FABIAN  
Assistant Corporation Counsel

*The Clerk of the Court is directed to close this case. Any pending motions are moot.*

SO ORDERED:

  
U.S.D.J. Nov. 30, 2009